



Docket No.: 246089US0

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RE: Application Serial No.: 10/725,451  
Applicants: Shingo KAKUO, et al.  
Filing Date: December 3, 2003  
For: AROMATASE ACTIVATING AGENT  
Group Art Unit: 1655  
Examiner: P. A. LEITH

SIR:

Attached hereto for filing are the following papers:

**Election of Species Response**

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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DOCKET NO: 246089US0

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

RE APPLICATION OF

SHINGO KAKUO, ET AL.

SERIAL NO: 10/725,451

FILED: DECEMBER 3, 2003

FOR: AROMATASE ACTIVATING  
AGENT

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: EXAMINER: P. A. LEITH

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: GROUP ART UNIT: 1655

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ELECTION OF SPECIES RESPONSE

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election Requirement mailed June 29, 2005, Applicants provisionally elect, with traverse and for search purposes only, the species: Cucumber. Claims 1-3 read on the elected species.

REMARKS

The Examiner is requiring election of the following species:

Cucumber or Ginseng.

Applicants provisionally elect, with traverse and for search purposes only, the species: Cucumber. Claims 1-3 read on the elected species.

Applicants traverse the Election of Species Requirement on the grounds that the Office has not provided any reasons, whatsoever, to support the conclusion of patentable distinctness. Rather, the Office has merely stated a conclusion.

Applicants make no statement regarding the patentable distinctness of the species, but note that for restriction to be proper, there must be a patentable difference between the species as claimed (M.P.E.P. § 808.01(a)). The Office has not provided any reasons or examples to support a conclusion that the species are indeed patentably distinct. Accordingly, Applicants submit that the Election Requirement is improper, that Applicants' election of species is for examination purposes only, and the Election Requirement should be withdrawn.

Additionally, Applicants respectfully submit that the Office has not shown that a serious burden exists in searching the entire application. Withdrawal of the Election Requirement is requested.

With respect to the elected species, Applicants respectfully submit that, should the elected species be found allowable, the Office should expand its search to the non-elected species.

Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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